

Exhibit 38

Sarah,

Per our discussion.

Thank you,
Melissa

Melissa J. White
Chief Counsel
Committee on Education
West Virginia House of Delegates
Room 432M
1900 Kanawha Boulevard, East
Charleston, WV 25305

From: Melissa White
Sent: Thursday, March 11, 2021 9:53 AM
To: Bernie Dolan <bernie.dolan@wvssac.org>; Bernie Dolan <bdolan@k12.wv.us>
Subject: Transgender participation in secondary schools bill

Bernie,

Attached is a draft of an originating bill regarding transgender participation in sports. I kept it short. There are obviously certain things that would need to be handled in a rule, unless you have language that you would like to see in the bill. Please let me know your thoughts and if there are any unintended consequences. The Chairman does not want to keep girls from participating in boys sports when there are not girls teams.

Thanks,
Melissa

Melissa J. White
Chief Counsel
Committee on Education
West Virginia House of Delegates
Room 432M
1900 Kanawha Boulevard, East
Charleston, WV 25305



2021 Green Book

*Summary of Public Education
Bills Enacted During the 2021
Regular Session*



**West Virginia Board of Education
2021-2022**

Miller L. Hall, President
Thomas W. Campbell, CPA, Vice President
F. Scott Rotruck, Financial Officer

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Sarah Armstrong Tucker, Ph.D., Ex Officio
Chancellor

West Virginia Higher Education Policy Commission
West Virginia Council for Community and Technical College Education

W. Clayton Burch, Ex Officio
State Superintendent of Schools
West Virginia Department of Education

CODE CHANGES

Code	Bill	Code	Bill	Code	Bill	Code	Bill
§3-8-12	HB 2009	§18-5-16	SB 375	§18-9B-8	HB 3177	§18-31-4	HB 2013
§5-10-19	HB 3191	§18-5-18e	HB 3177	§18-9B-9	HB 3177	§18-31-5	HB 2013
§11-1C-10	HB 2581	§18-5-43	HB 3177	§18-9B-10	HB 3177	§18-31-6	HB 2013
§11-3-15c	HB 2581	§18-5-45a	SB 11	§18-9B-11a	HB 3177	§18-31-7	HB 2013
§11-3-15f	HB 2581	§18-5G-1	HB 2012	§18-9B-12	HB 3177	§18-31-8	HB 2013
§11-3-15h	HB 2581	§18-5G-2	HB 2012	§18-9B-13	HB 3177	§18-31-9	HB 2013
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§11-3-24	HB 2581	§18-5G-9	HB 2012	§18-9B-18	HB 3177	§18-31-13	HB 2013
§11-3-24a	HB 2581	§18-5G-10	HB 2012	§18-9B-19	HB 3177	§18A-2-16	HB 2267
§11-3-24b	HB 2581	§18-5G-11	HB 2012	§18-9B-20	HB 3177	§18A-2-25	HB 3293
§11-3-25	HB 2581	§18-5G-13	HB 2012	§18-9B-21	HB 3177	§18A-3-1	HB 2029
§11-3-25a	HB 2581	§18-5G-14	HB 2012	§18-9D-15	HB 2906	§18A-3-2a	SB 14
§11-3-32	HB 2581	§18-5G-15	HB 2012	§18-10H-4	HB 3177	§18A-3-2a	HB2029
§11-10A-1	HB 2581	§18-7A-13a	HB 3191	§18-30A-1	HB 2001	§18A-4-2	SB 680
§11-10A-7	HB 2581	§18-7A-36	HB 3177	§18-30A-2	HB 2001	§18A-4-8	HB 2145
§11-10A-8	HB 2581	§18-8-1	HB 2013	§18-30A-3	HB 2001	§18A-4-8a	HB 2145
§11-10A-10	HB 2581	§18-8-1a	HB 2785	§18-30A-4	HB 2001	§18A-4-16	HB 3266
§11-10A-19	HB 2581	§18-8-11	SB 431	§18-30A-5	HB 2001	§21-1A-4	HB 2009
§11-21-12m	HB 2001	§18-9-3a	SB 651	§18-30A-6	HB 2001	§21-5-1	HB 2009
§11-21-25	HB 2001	§18-9A-6a	HB 3177	§18-30A-7	HB 2001	§21-6-3	SB 435
§11-24-10a	HB 2001	§18-9A-7	HB 3177	§18-30A-8	HB 2001	§21-6-4	SB 435
§17B-2-7	SB 356	§18-9A-8a	HB 3177	§18-30A-9	HB 2001	§21-6-5	SB 435
§18-2-5c	HB 3293	§18-9A-15	HB 2852	§18-30A-10	HB 2001	§21-6-10	SB 435
§18-2-5d	HB 3177	§18-9A-16	HB 3177	§18-30A-11	HB 2001	§49-2-113	SB 89
§18-2-9	SB 636	§18-9A-25	HB 2013	§18-30A-12	HB 2001	§55-19-1	SB 277
§18-2-13b	HB 3177	§18-9B-1	HB 3177	§18-30A-13	HB 2001	§55-19-2	SB 277
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§18-2-35	HB 3177	§18-9B-4	HB 3177	§18-30A-16	HB 2001	§55-19-5	SB 277
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§18-5-15g	HB 2791	§18-9B-7	HB 3177			§55-19-9	SB 277

Legend for this page:

- **Black** designates amended code.
- **Red** designates stricken code.
- **Green** designates new code.

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Senate Bill 11: Declaring work stoppage or strike by public employees to be unlawful

Effective Date: June 2, 2021

Code Reference: Adds: §18-5-45a

WVDE Contact: Heather Hutchens, General Counsel, Office of Legal Services

Bill Summary: The bill confirms that a work stoppage or strike by public employees, and specifically employees of a county board of education, is both unlawful and disruptive to the delivery of the constitutionally required thorough and efficient education. The bill outlines when an employee is participating in a concerted work stoppage, strike, or interruption of operations. This bill clarifies that an employee may not take personal leave to participate in a work stoppage/strike and clarifies that a county board may not utilize accrued or equivalent instruction time or alternate delivery models to cancel or make up lost days. The bill clarifies that the West Virginia Board of Education (WVBE) waiver process cannot be utilized to waive the employment term or minimum instructional term if the noncompliance is because of a work stoppage or strike. This bill clarifies participation is a ground for termination, but if the county does not terminate the employee, the employee's salary should be prorated to account for the absence.

Senate Bill 14: Providing for additional options for alternative certification for teachers

Effective Date: May 27, 2021

Code Reference: Amends: §18A-3-2a

WVDE Contact: Carla Warren, Director, Educator Development and Support

Bill Summary: The bill proposes an alternative certification pathway for individuals to obtain a professional teaching certificate. The bill sets forth four requirements that an individual must obtain to be eligible to receive a professional teaching certificate: (1) hold a bachelor's degree; (2) submit to a criminal history check; (3) successfully complete pedagogical training or pedagogical course(s) that are in substantive alignment with nationally recognized pedagogical standards, or approved/established by the state board; and (4) pass the same subject matter and competency tests required of traditional program applicants for licensure.

Senate Bill 89: Exempting certain kindergarten and preschool programs offered by private schools from registration requirements.

Effective Date: July 4, 2021

Code Reference: Amends: §49-2-113

WVDE Contact: Monica DellaMea, Director, Early and Elementary Learning Services

Bill Summary: The passage of this bill no longer requires certain early childhood programs to obtain approval of its operations from the secretary of the West Virginia Department of Health and Human Resources through the child care licensure process. This includes kindergarten, preschool, or school education programs operated by a public school or which is accredited by the West Virginia Department of Education or any other kindergarten, preschool, or school programs which operates with sessions not exceeding four hours per day for any child pre-k and kindergarten programs. Any kindergarten, preschool, or school education program operated by a private, parochial, or church school recognized by the West Virginia Department of Education under Policy 2330 are also not required to obtain approval of its operations.

Senate Bill 277: Creating COVID-19 Jobs Protection Act

Effective Date: March 11, 2021

Code Reference: Adds: §55-19-1; §55-19-2; §55-19-3; §55-19-4; §55-19-5; §55-19-6; §55-19-7; §55-19-8; §55-19-9

WVDE Contact: Legal Services

Bill Summary: The bill provides immunity to county boards of education, among other, to claims arising from the COVID-19 pandemic, provided the county board (or any of its employees or agents) did not intentionally engage in conduct with actual malice to cause injury.

Senate Bill 356: Allowing for written part of drivers' exam given in high school drivers' education course.

Effective Date: June 24, 2021

Code Reference: Amends: §17B-2-7

WVDE Contact: Joey Wiseman, Director, Middle and Secondary Learning Services

Bill Summary: The bill allows for West Virginia Driver Education Instructors to administer a knowledge test developed by the Division of Motor Vehicles. Any person who successfully completes a test administered by a driver education instructor is exempt from the proof of school enrollment requirements.

Senate Bill 375: Relating to county boards of education policies for open enrollment.

Effective Date: July 6, 2021

Code Reference: Amends: §18-5-16

WVDE Contact: Legal Services

Bill Summary: The bill makes a few changes to the modifications that were made in the 2019 education omnibus bill relating to intercounty transfers (where a student seeks to attend school in a county other than the one where he or she resides) and reinserts funding language that was inadvertently omitted in the 2019 bill. Substantively, the bill says that an intercounty transfer application may only be denied by a county board of education if there is no classroom space available. If an intercounty transfer request is denied, the denial must be in writing and sent to both the parents of the student and the West Virginia Department of Education (WVDE), with explanation of denial and notification of appeal rights, within three business days.

Senate Bill 431: Relating to school attendance notification requirements to DMV.

Effective Date: June 24, 2021

Code Reference: Amends: §18-8-11

WVDE Contact: Charlene Coburn, Officer, Support and Accountability Services

Bill Summary: The bill authorizes DMV to accept electronic verification of a student's attendance and satisfactory academic progress from a county board of education. Verification of these two items is statutorily required prior to issuance of a driver's license or learner's permit.

Senate Bill 435: Requiring county superintendents to authorize certain school principals or administrators at nonpublic schools to issue work permits for enrolled students.

Effective Date: June 24, 2021

Code Reference: Amends: §21-6-3; §21-6-4; §21-6-5; §21-6-10

WVDE Contact: Legal Services

Bill Summary: The bill permits individuals that are authorized to issue graduation credentials (nonpublic school administrators and homeschool parents) to issue a work permit to children 14 or 15 years of age provided the current statutory requirements for issuing a work permit are satisfied (i.e., written statement from prospective employer that they intend to employ the child; brief description of job child will perform; review of birth certificate verifying child's age; for children attending a nonpublic schools, a certificate showing school attendance). The bill imposes the same responsibilities and penalties for improper issuance of a work permit on nonpublic school administrators and home school parents that are currently imposed upon county superintendents issuing work permits.

Senate Bill 636: Requiring certain history and civics courses be taught in schools.

Effective Date: July 9, 2021

Code Reference: Amends: §18-2-9

WVDE Contact: Sonya White, Officer, Office of Teaching and Learning
Joey Wiseman, Director, Middle and Secondary Learning Services, Office of Teaching and Learning

Bill Summary: The bill adds the following topics/areas that must be taught in all public, private, parochial, and denominational schools in West Virginia:

- Institutions and structure of American government, such as the separation of powers, the Electoral College, and federalism.
- American political philosophy and history utilizing writings from prominent figures in Western civilization, such as Aristotle, Thomas Hobbes, John Locke, and Thomas Jefferson.
- Objective and critical analysis of ideologies throughout history, including capitalism, republicanism, democracy, socialism, communism, and fascism.

In providing this instruction, the bill directs that teachers use primary sources and interactive learning techniques, such as mock scenarios, debates, and open and impartial discussions.

The WVBE is directed to develop academic standards for middle and high school students that cover the required instruction and publish a list of approved instructional resources pursuant to 18-2A-1, et seq. The WVBE is required to consult with “other entities” prior to adopting standards; the bill lists the following entities as possible entities to consult: Florida Joint Center for Citizenship, College Board, Bill of Rights Institute, Hillsdale College, Gilder Lehrman Institute of American History, Constitutional Sources Projects, educators, school administrators, postsecondary education representatives, elected officials, business and industry leaders, parents, and the public.

The WVBE is also required to provide a testing/assessment for the history and civics courses required. Such assessments must measure a students’ factual and conceptual knowledge including how facts interrelate and the reasons behind historical documents and events. All students in public, private, parochial, and denominational schools are required to take these assessments.

Senate Bill 651: Allowing county boards of education to publish financial statements on website.

Effective Date: July 6, 2021

Code Reference: Amends: §18-9-3a

WVDE Contact: Amy Willard, School Operations Officer, Office of School Operations and Finance

Bill Summary: Starting with financial statements to be published in the fall of 2024, the bill extends the time for county boards of education (CBOE) to annually publish their financial statement in the newspaper from 90 days to 120 days.

Also starting in 2024, the bill provides an electronic option in place of posting the financial statement in the newspaper if certain conditions were met. After conducting a properly noticed public hearing at which interested persons could express their views electronic publication, a CBOE could post its financial statement on the CBOE’s website. The first year the CBOE utilizes the electronic option it is required to publish in the newspaper for two consecutive weeks the availability of the financial statement on the CBOE’s website.

In addition to all financial information currently required to be included in the CBOE's financial statement, if the CBOE utilizes the electronic option to post financial statement it must also include the following information: (1) all persons having a contract with the county board (all professional and service personnel, including substitutes) and the amount paid to each; (2) budget estimates; and (3) list of names of each entity receiving less than \$250 from any fund showing the amount paid and purpose for which it was paid. Financial statements posted on the CBOE website must remain posted until the posting of the following year's financial statement.

Senate Bill 680: Allowing State Superintendent of Schools define classroom teachers certified in special education.

Effective Date: July 5, 2021

Code Reference: Amends: §18A-4-2

WVDE Contact: Amy Willard, School Operations Officer, Office of School Operations and Finance

Bill Summary: This is a 'clean-up' bill to a provision included in HB206 (passed in 2019) that provides a three step pay bump to special education classroom teachers.

House Bill 2001: Relating generally to creating the West Virginia Jumpstart Savings Program

Effective Date: June 9, 2021

Code Reference: Adds: §11-21-12m; §11-21-25; §11-24-10a; §18-30A-1; §18-30A-2; §18-30A-3; §18-30A-4; §18-30A-5; §18-30A-6; §18-30A-7; §18-30A-8; §18-30A-9; §18-30A-10; §18-30A-11; §18-30A-12; §18-30A-13; §18-30A-14; §18-30A-15; §18-30A-16

WVDE Contact: Amy Willard, School Operations Officer, Office of School Operations & Finance
Phillip Uy, Financial Officer

Bill Summary: The bill establishes the West Virginia Jumpstart Savings Program as a result of the Legislature recognizing the importance of cultivating an environment in West Virginia where tradespersons and entrepreneurs can be successful in their careers and remain in their home state. The program is to be operable on or before July 1, 2022.

- The bill indicates that the program shall be administered by the West Virginia Jumpstart Savings Board (Board) and outlines the seven members who serve on the Board. The bill outlines the powers and

- authority of the Board to successfully administer the program.
- The bill also outlines the duties and responsibilities of the Treasurer, who is also the chairman and presiding officer of the Board.
- The bill further establishes the Jumpstart Savings Trust Fund and Jumpstart Savings Expense Fund for the administration of the program and outlines the process for selecting financial organizations to act as depositories and managers for the programs.
- The bill defines the eligibility criteria for opening a Jumpstart Savings Account and for when the Treasurer will deposit \$100 into a newly opened account.
- The bill defines qualifying expenses, which include:
 - » The purchase of tools, equipment, or supplies by the beneficiary to be used exclusively in an occupation or professional for which the beneficiary is required to:
 - » Complete an apprenticeship program through the United States Department of Labor
- Complete an apprenticeship program required by state or legislative rule
- Earn a license or certification from an Advanced Career Education (ACE) career center; or
- Earn an associate degree or certification from a community and technical college.
 - » Fees for required certification or licensure for the beneficiary to practice a trade or occupation in the state as described above.
 - » Costs incurred by the beneficiary that are necessary to establish a business in this state in which the beneficiary will practice an occupation or profession as described above, when the costs are exclusively incurred and paid for the purpose of establishing and operating such business.
- The bill provides for certain tax benefits for contributors to a Jumpstart Savings Account. For West Virginia personal income tax purposes, a taxpayer's adjusted gross income is reduced by an amount equal to the taxpayer's contribution to a Jumpstart Savings Account, up to \$25,000 in a single taxable year, with a carryforward provision not to exceed five taxable years. A similar modification is allowed in an amount equal to a distribution received from a Jumpstart Savings Accounts that is used to pay for qualified expenses, not to exceed \$25,000 for the taxable year.
- The bill provides for certain nonrefundable tax credits against West Virginia personal income tax and corporate net income tax for a

matching contribution made by a qualified employer into a Jumpstart Savings Account if the beneficiary of the account is an employee of the taxpaying employer and if the beneficiary is a West Virginia resident. The tax credit allowed may not exceed \$5,000 per employee per taxable year and an employer may not claim a credit against more than one type of tax for a single contribution to a Jumpstart Savings Account.

- The bill requires the Board to promulgate legislative, procedural, or emergency rules that outline specific requirements related to the program.

House Bill 2009: Relating to limitations on the use of wages and agency shop fees by employers and labor organizations for political activities.

Effective Date: June 17, 2021

Code Reference: Add: §7-5-25
Amends: §8-5-12; §12-3-13b; §18A-4-9; §21-5-1; §21-5-3; §45A-2-116

WVDE Contact: Legal Services

Bill Summary: Relating to limitations on the use of wages and agency shop fees by employers and labor organizations for political activities. House Bill 2009 prohibits the deduction or assignment of union, labor organization or club dues or fees from the earnings of county board of education employees. As for wage assignments for permissible purposes, the bill also removes the requirement that assignments of an employee's future wages must be notarized. It will now be sufficient if the assignment is in writing.

House Bill 2012: Relating to Public Charter Schools

Effective Date: June 1, 2021

Code Reference: Amends: §18-5G-1; §18-5G-2; §18-5G-4; §18-5G-5; §18-5G-6; §18-5G-9; §18-5G-10; §18-5G-11
Adds: §18-5G-13; §18-5G-14; §18-5G-15

WVDE Contact: Legal Services

Bill Summary: The bill makes the following changes to the existing public charter school law:

- Increases the cap on charter schools from 3 to 10 every three years.